

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 144.3, the Department of Public Health hereby rescinds Chapter 95, “Certificate of Birth—Registration Fee,” Chapter 96, “Vital Records,” Chapter 98, “Forms Uniform,” Chapter 99, “Delayed Birth, Death and Marriage Registration,” Chapter 100, “Establishment of New Certificates of Birth,” Chapter 101, “Death Certification, Autopsy and Disinterment,” Chapter 102, “Correction and Amendment of Vital Records,” Chapter 103, “Confidentiality of Records,” Chapter 104, “Copies of Vital Records,” Chapter 105, “Declaration of Paternity Registry,” Chapter 106, “Reporting of Termination of Pregnancy,” and Chapter 107, “Mutual Consent Voluntary Adoption Registry,” and adopts new Chapter 95, “Vital Records: General Administration,” Chapter 96, “Birth Registration,” Chapter 97, “Death Registration and Disposition of Dead Human Bodies,” Chapter 98, “Marriage Registration,” Chapter 99, “Vital Records: Modifications,” and Chapter 100, “Vital Records: Registries and Reports,” Iowa Administrative Code.

New Chapters 95 to 100 are the result of reorganizing the information contained in rescinded Chapters 95, 96, and 98 to 107 in an effort to make it easier to locate the information. The new chapters also include new and updated information. The following is a summary of the information in each new chapter. For purposes of comparison, a reference to the rescinded chapter or rule in which the information had been found is also included.

Chapter 95, Vital Records: General Administration, includes definitions and establishes fees. Chapter 95 sets forth requirements relating to entitlement, confidentiality, and access to data. In addition, this chapter addresses certified copies, cancellation of fraudulent records and unlawful acts. The subject matter addressed in new Chapter 95 was addressed in rescinded Chapters 96, 98, 103, and 104.

Chapter 96, Birth Registration, defines time frames for registering births and specifies parties responsible for registration in various circumstances. The chapter also specifies registration fees and requirements for supporting evidence when needed. The subject matter addressed in new Chapter 96 was addressed in rescinded Chapters 95, 99, and 100.

Chapter 97, Death Registration and Disposition of Dead Human Bodies, defines time frames for registering deaths and specifies parties responsible for registration in various circumstances. The chapter also specifies requirements for medical certification for cause of death and includes burial-transit permits and disinterment permits. The subject matter addressed in new Chapter 97 was addressed in rescinded Chapters 98, 99, and 101.

Chapter 98, Marriage Registration, includes the process for marriage applications and obtaining the license to marry and the certificate of marriage. The chapter also defines time frames for registering marriages and specifies parties responsible for registration. The process for reporting dissolution of marriages or annulment is also included in this chapter. The subject matter addressed in new Chapter 98 was addressed in rescinded Chapter 99.

Chapter 99, Vital Records: Modifications, includes the processes for corrections, amendments, and court-ordered changes to records. The chapter also includes processes for adoptions, gestational surrogates, paternity establishment, and other legal actions. Requirements for supporting documentation are also specified. The subject matter addressed in new Chapter 99 was addressed in rescinded Chapters 100 and 102.

Chapter 100, Vital Records: Registries and Reports, includes requirements for the declaration of paternity registry, the mutual consent voluntary adoption registry, and the statistical report of termination of pregnancy. The subject matter addressed in new Chapter 100 was addressed in rescinded Chapters 105, 106, and 107.

Notice of Intended Action was published in the October 3, 2012, Iowa Administrative Bulletin as **ARC 0376C**. The Department distributed a draft of the proposed rules to stakeholder groups in August of 2011 as a pre-notice to solicit comments. The same stakeholder groups were notified on October 4, 2012, that the rules had been published in the October 3, 2012, Iowa Administrative Bulletin for public

comment. The Department held a comment period through October 23, 2012, and also conducted a public hearing on October 23, 2012, at the Lucas State Office Building, Des Moines, Iowa. During the time of the comment period and at the public hearing, comments suggesting changes were received from the Iowa County Recorders Association, the Iowa Funeral Directors Association, and the Mortuary Science Program at DMACC; and comments supporting the proposed rules were received from several private-practice attorneys.

As a result of the comments received on the rules and additional internal review, the Department made the following changes to the Noticed rules:

In rule 641—95.1(144), added a definition of “Certificate,” which reads as follows:

“‘*Certificate*’ means the written or electronic legal document containing the facts of an event; also used interchangeably with the term ‘record.’”

In subrule 95.6(4), changed “shall charge a fee of \$4” to “may charge a fee of no more than \$5.” Subrule 95.6(4) now reads as follows:

“**95.6(4) Search of county registrar’s records—fee for uncertified copy.** A person who is requesting an uncertified copy of a record in the custody of the county registrar shall conduct the search of the county files to locate the record. If a copy is requested, the county registrar may charge a fee of no more than \$5 for an uncertified copy of the county record. The fee shall be retained by the county.”

In subrule 95.7(9), changed “All copies” to “Certified and uncertified copies.” Subrule 95.7(9) now reads as follows:

“**95.7(9)** For a record of death registered on or after April 5, 2012, for a decedent who died outside of the county of the decedent’s residence, the state registrar shall send a clearly marked copy of the decedent’s death certificate and any amendments to the county registrar of the county of the decedent’s residence. The county registrar shall incorporate the clearly marked copy of the county resident death certificate in the vital records system maintained by the county. Certified or uncertified copies of county resident death certificates shall be clearly marked as ‘county resident copy.’”

In subparagraph 95.8(1)“c”(4), changed “six months” to “up to one year.” The subparagraph now reads as follows:

“(4) A funeral director, for up to one year following the decedent’s date of death; or”

In paragraph 97.5(1)“b,” changed “physician or medical examiner” to “medical certifier.” Paragraph 97.5(1)“b” now reads as follows:

“b. Obtain the medical certification of cause of death from the medical certifier; and”

In subrule 97.6(6), changed “authorized person” to “medical certifier.” Subrule 97.6(6) now reads as follows:

“**97.6(6)** The medical certifier completing the medical certification of cause of death shall attest to the accuracy of the medical certification either by signature or by an electronic process approved by the state registrar.”

In subrule 97.10(2), removed “but in all cases within 15 days,” and changed “file a supplemental report with the state registrar” to “report the missing information to the state registrar.” Subrule 97.10(2) now reads as follows:

“**97.10(2)** As soon as possible, the person responsible for completing the information missing from the original certificate shall report the missing information to the state registrar.”

In rule 641—97.12(144), added two new sentences after the catchwords of the rule. The introductory paragraph of rule 641—97.12(144) now reads as follows:

“**641—97.12(144) Burial-transit permit.** If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead human body or fetus, the person shall secure a burial-transit permit pursuant to Iowa Code section 144.32. Pursuant to rule 645—100.4(144), an unlicensed employee of the funeral establishment shall be considered an agent of the funeral director.”

In the introductory paragraph of subrule 97.12(1), removed the words “required pursuant to Iowa Code section 144.32” after the word “permit” because that requirement was added to the aforementioned introductory sentence in rule 641—97.12(144). The introductory paragraph of subrule 97.12(1) now reads as follows:

“97.12(1) The burial-transit permit shall be issued upon a form prescribed by the state registrar and shall state.”

In subrule 97.15(1), added new paragraphs “a” and “h” and relettered Noticed paragraphs “a” to “f” as “b” to “g.” Subrule 97.15(1) now reads as follows:

“97.15(1) Application. Registration of a delayed certificate of death may be requested by the surviving next of kin of the deceased, or the surviving next of kin’s legal representative, in the following descending order:

- “a. Executor of the decedent’s estate;
- “b. Spouse, if not legally separated from the decedent;
- “c. Child or legal guardian of the child if the child is under the age of majority;
- “d. Parent;
- “e. Grandchild or legal guardian of the grandchild if the grandchild is under the age of majority;
- “f. Sibling;
- “g. Grandparent; or
- “h. Funeral director responsible for the disposition of the decedent.”

In subrule 97.15(7), changed the word “shall” in the second sentence to “may.” Subrule 97.15(7) now reads as follows:

“97.15(7) Duties of county registrar. The county registrar may assist the applicant in the completion and notarization of the delayed form, excluding the portion restricted for state use only. The county registrar may forward the partially completed delayed form, documents and fees to the state registrar for final review and possible acceptance.”

In rule 641—97.16(144), added subrules 97.16(6) and 97.16(7) and renumbered Noticed subrule 97.16(6) as 97.16(8). The two new subrules read as follows:

“97.16(6) The certificate of presumptive death shall be registered and maintained solely at the state registrar’s office.

“97.16(7) The certificate of presumptive death shall be recorded based on the date of the court order and shall not be registered as a delayed certificate.”

In subrule 97.18(2), added “at the funeral establishment responsible for disposition.” Subrule 97.18(2) now reads as follows:

“97.18(2) Records maintained under this rule shall be retained for a period of not less than ten years at the funeral establishment responsible for disposition and shall be made available for inspection by the state registrar upon demand.”

In subrule 98.4(3), removed the text “applicant’s age, name, and parents’ names by providing a certified copy of the applicant’s birth certificate at the time that the application is submitted to the county registrar. A foreign birth certificate must be translated into English. All documents shall be returned to the applicants” and added the words “personal information by notarized signature.” Subrule 98.4(3) now reads as follows:

“98.4(3) Each applicant shall verify the personal information by notarized signature.”

In subrule 98.7(7), changed the word “shall” in the second sentence to “may.” Subrule 98.7(7) now reads as follows:

“98.7(7) Duties of county registrar. The county registrar may assist the applicant in the completion and notarization of the delayed form, excluding the portion restricted for state use only. The county registrar may forward the partially completed delayed form, documents and fees to the state registrar for final review and possible acceptance.”

The State Board of Health adopted these amendments on November 14, 2012.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 144 and Iowa Code sections 135.11(7), 144C.5, 233.2(2)“c,” 252A.3A, 331.605(1)“f” and “g,” 331.802(3), 595.2(4), 595.4, 595.5, 595.10, 595.16, 600.15, 600.16A, 633.517 to 633.520, 674.2, 674.7 and 674.9.

These amendments will become effective on January 16, 2013.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [rescind Chs 95, 96, 98 to 107; adopt Chs 95 to 100] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 0376C**, IAB 10/3/12.

[Filed 11/14/12, effective 1/16/13]

[Published 12/12/12]

[For replacement pages for IAC, see IAC Supplement 12/12/12.]